

This chapter provides information and instructions on procedures applicable to the Emergency Relief program on and off the federal aid highway system.

Agencies should notify the Regional TransAid Engineer (RTE) involving damages to roadway systems caused by an emergency/disaster.

33.1 General Discussion

When an emergency exceeds the capability of state and local government, federal assistance can be requested from:

- The Federal Highway Administration (FHWA) under Title 23, U.S.C., Section 125 for the restoration of damaged roads and bridges on federally functionally classified routes except for rural minor collectors and local access roads.
- Federal Emergency Management Agency (FEMA) under Public Law 93-288, as amended, “Robert T. Stafford Disaster Relief and Emergency Assistance Act, Nov. 1988,” for restoration of damaged roads and bridges off of the eligible federal aid classified roads and streets.

[Appendix 33.51](#) depicts the steps in applying for disaster relief assistance. These steps are described more fully in the remainder of this chapter.

References

- State of Washington Comprehensive Emergency Management Plan
- WSDOT *Disaster Plan* (M 54-11) — November 1994
- *Emergency Relief Disaster Assistance* manual — January 1994

33.2 Initial Steps Immediately After a Disaster

- .21 Initial Notification.** A local Emergency Management Office immediately notifies the Washington State Emergency Management (EM) via the fastest means possible.
- .22 Declaration of Emergency by Local Agency.** The declaration is signed by elected official(s) in accordance with the State of Washington Comprehensive Emergency Management Plan. In accordance with RCW 38.52, the state and each political subdivision (e.g., local agency) has prepared a Comprehensive Emergency Plan which is put into effect when a disaster occurs.
- .23 Recording Site Specific Costs.** It is very important to document all expenses incurred by an agency in coping with the disaster or catastrophe. Records must be sitespecific, identified by route and milepost within the

route. Cost records must be supported by labor, equipment, and materials. Failure to document costs as outlined above is a major reason for ineligibility findings.

- .24 Additional Data Gathering.** Agencies should gather evidence of the disaster such as newspaper clippings and photos that can be reproduced. This information is helpful in the preparation of the field reports to request emergency relief funds.
- .25 Requesting State Assistance.** During and immediately after the disaster, the local Emergency Management Office conducts “damage assessments” to determine the magnitude, dollar value, effects, and impacts of the emergency or disaster ([Appendixes 33.54, 33.55, and 33.59](#)).

It is very important to make timely and accurate damage reports to EM. These reports should describe the disaster and any local response. The “Incident Report” and “Disaster Analysis Report” forms provided by EM and completed by the local agency (see Annex G of the Comprehensive Emergency Management Plan) are approved means of providing such a report. In addition, this notification should include the local agency’s “Declaration of Emergency.”

- .26 Proclamation by the Governor.** From the information received from the local Emergency Management Office, EM will inform the Governor. If the situation warrants state assistance, EM will coordinate the state response to supplement the efforts of local governments. The Governor will proclaim a State of Emergency when necessary.

The Governor’s proclamation is required to obtain assistance under both Title 23, U.S.C., Section 125, and Public Law 93-288, as amended (see [Appendix 33.56](#)).

- .27 Preliminary Damage Assessments by EM, FEMA, WSDOT, and FHWA.** The state, through EM and in cooperation with FEMA, WSDOT, and FHWA, begins the analysis of the situation by conducting a [preliminary damage assessment](#) to determine the severity and magnitude of the situation. This information is needed to determine what type of assistance is needed to deal with the problems.

[Preliminary Damage Assessments](#) (PDAs) are performed in accordance with the State Comprehensive Emergency Management Plan (Annex S) to obtain relatively accurate and rapid assessment of damages.

The PDA is used by the following agencies:

- By EM in formulating a report and recommendation to the Governor which is used as the basis for submitting a request to the President.

- By the FEMA Regional Director in formulating a recommendation to the FEMA Administrator and the President concerning the request from the state.
- By the Washington State Department of Transportation (WSDOT) TransAid Service Center preparing the request for Emergency Relief Assistance (ER) under Title 23 for repairs on a federal aid system.

The PDAs are prepared by assessment teams representing federal, state, and local agencies as follows:

FEMA — The team leader is a designated engineer from FEMA. The state member will be designated by EM and the local member will be designated by the local jurisdiction.

FHWA — The team leader is a designated engineer from FHWA. The state member will be designated by WSDOT and local member will be designated by the local jurisdiction.

Every effort will be made to combine teams to reduce the impact on local jurisdiction; however, there may be cases where combining teams is not practical.

Local agencies should have all relevant information available for the teams, including forms (EM 129,130, [Appendixes 33.53](#) and [33.59](#)) and site maps of the damaged areas, cross referenced to form EM 129.

At this point, a breakdown of damage costs is made: those covered by Title 23, Section 125, are processed by FHWA, and those covered by Public Law 93-288 are processed by EM.

From this point on, the processing of Title 23 and PL93-288 projects are different, and the procedures are shown separately in the following sections.

33.3 Emergency Relief for Eligible Federal Aid Roads and Streets

The Emergency Relief (ER) Program authorized by Title 23, U.S.C., Section 125, provides funds for emergency opening, repair, or reconstruction of roadways on an eligible federal aid road/street. It also provides emergency funds for other roads and trails on federal lands which have suffered serious damage due to natural disaster or catastrophic failure and for which an emergency has been declared by the Governor and concurred in by the FHWA Administrator (USDOT).

Federal share payable for eligible emergency repair to minimize damage, protect facilities, or restore essential traffic accomplished within 180 calendar days after the last day of the actual occurrence of the natural disaster or catastrophic failure may be eligible for 100 percent federal aid. Repairs performed beyond 180 days after the occurrence of the disaster will be funded at the current program participation ratio for the federal aid route affected.

This program is administered by FHWA through WSDOT. However, repairs to roads maintained by federal agencies (Forest Service, Park Service, etc.) are handled directly by FHWA, Federal Lands Division Office in Vancouver, Washington, and the responsible agency.

.31 Application for Federal Assistance.

- a. Letter of Intent ([Appendix 33.54](#)). WSDOT TransAid prepares and transmits to FHWA a “letter of intent” to apply for Emergency Relief funds under Title 23, U.S.C., Section 125. This request may precede or follow the Governor’s proclamation.
- b. Acknowledgement of Letter of Intent ([Appendix 33.55](#)). The FHWA’s response requests agencies to proceed with emergency repairs to restore essential travel, to protect remaining facilities, to reduce the extent of damage, to begin preliminary engineering consisting of surveys, design, and preparation of construction plans; to perform that permanent restoration work which is required as part of the emergency operation, and to use local forces or negotiated contract or equipment-rental contracts as necessary to perform the work. RECORDS MUST BE SITE-SPECIFIC (identified by K.P. (M.P.) for each eligible federal aid routes). COSTS MUST BE SUPPORTED BY LABOR, EQUIPMENT, AND MATERIAL RECORDS. This is necessary to obtain full reimbursement.

The eligibility of such work for federal funding is contingent upon concurrence by the FHWA Administrator. Each affected local agency will be notified of FHWA’s response by WSDOT TransAid.
- c. Request for ER Funds. WSDOT TransAid prepares and sends an official request for ER funds to FHWA. The request is based on the following information provided by the local agency in the form of a report (see [Appendix 33.57](#)):
 - The [Preliminary Damage Assessment Report](#).
 - Maps showing the location of damages.
 - Photographs (reproducible), newspaper articles, and related documents.
 - An impact assessment, including impact on the local agency road budget.
 - The Governor’s proclamation.
 - Additional data as requested by FHWA.
- d. Action on Request for ER Funds. The FHWA Division Office prepares a field report and recommendation, based on the above information plus FHWA field reviews, and submits them through channels to the FHWA Administrator.

- e. Approval of ER Funds. The FHWA Administrator acts on the request and informs FHWA Regional and Division Offices. WSDOT TransAid is informed accordingly, and it notifies the local agency ([Appendix 33.58](#)).

The ER process is such that the decision on ER eligibility/noneligibility does not occur until approximately 60 days after the incident period. However, emergency operations as outlined above should be ongoing during this interval.

.32 Actions After Federal Funding Approval.

- a. Preparation of Damage Survey Reports. If the disaster damage has been determined to be eligible for Title 23, U.S.C. Section 125 funds, detailed [Damage Assessment forms](#) (DAF) are prepared to determine the amount and scope of reimbursement for both emergency and permanent restoration work. The DAFs are usually prepared by the assessment team that prepared the preliminary damage assessments. Because a significant amount of time may have elapsed since the disaster, the local agency may have to fund restoration costs while waiting for reimbursement. In many cases, the emergency work will already have been completed. Therefore, accurate and detailed records are required to verify the expenditures. For a sample DAF, see [Appendix 33.59](#).
- b. Preparation of Program Documents. The approved DAF serves as the basic justification and cost document. The DAF preparation is a joint effort by FHWA, WSDOT (TransAid), and local personnel. Each agency receives a copy of the DAF. Based on detailed DAFs received, WSDOT TransAid will prepare and forward a statewide ER program of projects to FHWA for approval. Following program approval by FHWA, WSDOT TransAid will request any additional information that is required to advance a specific project to the construction stage.
- c. Funds Authorization, Billings, and Payment. WSDOT TransAid will process all the required data and submit it to FHWA for fund authorization.

All further action, including processing, billing, and payment, will be in accordance with [Chapter 23](#) of this manual.
- d. Overruns. If during the course of project development the costs exceed the amount on the DAFs, a request for additional funds must be submitted to FHWA through WSDOT TransAid. This request will consist of a revised estimate and its justification, a detailed explanation of the overrun, and a supplement to the Local Agency Agreement ([Chapter 22](#)).
- e. Project Closure. Final vouchers, inspection, audit, and project closure are accomplished in accordance with [Chapter 53](#) of this manual.

.33 Determination of Eligible and Ineligible Costs. FHWA policy regarding emergency relief procedures under the ER Program is outlined in the Emergency Relief Disaster Assistance Manual (Publication No. FHWA-HNG-12 dated January 1994). Following is the basic information from the federal publication:

- a. General. Only certain items of repair or reconstruction of roads, streets, and bridges are eligible under the emergency relief program. The federal government will participate in costs when they are properly supported and documented and when such costs are directly attributable and properly allocable to emergency relief projects.

The Emergency Relief Program is intended to correct disaster damage to highways. The ER program does not provide emergency transportation services (e.g., ambulances, helicopters, etc.), compensation for material, equipment, or economic losses (e.g., stockpiled material, maintenance equipment, lost revenue, etc.), or reconstruction (replacement) of highways and highway projects as defined in Title 23, U.S.C.

The emergency conditions most frequently experienced are those resulting from damage to highways caused by storms which create flooding conditions. The processing of claims for damage by hurricanes, tidal waves, earthquakes, severe storms, landslides, volcanic eruptions, and other catastrophes will normally follow the criteria established for flood disasters.

- b. Basic Criteria. Damages to be corrected must have resulted from the declared disaster or catastrophic failure.

Generally, that portion of a federal aid highway facility that is the maintenance responsibility of the applicant is eligible for repair or reconstruction. Any permanent work which is not eligible for participation as a part of a regular federal aid project is not eligible for emergency relief funds.

Work already scheduled for repairing or replacing deficient facilities which are damaged during a disaster will not be eligible for ER funds. This work should be funded as originally intended.

Damage outside the right-of-way is generally not eligible unless the agency can establish maintenance responsibility. When a disaster has caused damage that consists of heavy maintenance and work frequently performed by the department's maintenance forces, the work is not eligible.

Emergency relief funds may participate in the emergency repair or reconstruction of pavements or other surface courses, shoulders, embankments, cut slopes, natural and man-built drainage channels, including riprap, cribbing, or other bank control

features, guardrail, bridges, retaining walls, signs and traffic control devices, and culverts and similar structures. The clearing of debris and other deposits in drainage courses within the highway right-of-way and outside the right-of-way is eligible where the agency has the jurisdiction and responsibility for channel maintenance.

Landscaping and functional planting are eligible when associated with major damage restoration through permanent repair methods.

- c. **Emergency and Incidental Permanent Work.** The intent of temporary operations, including emergency repairs, is to restore essential traffic which cannot wait for a finding of eligibility and programming of a project. Emergency repair work should be accomplished in a manner which will reduce additional work required for permanent repairs.

The FHWA Division Administrator's concurrence of the need for emergency work conveyed in the division's acknowledgement to the state's letter of intent does not authorize the agency to proceed with permanent restoration work on damaged highways unless the restoration is more economical or practical to perform as an associated part of the emergency operation. This incidental restoration can be performed with the emergency work provided it is properly covered in the damage inspection report. If such work has been accomplished prior to the site damage review, retroactive approval may be given when circumstances warrant.

There may be situations in which immediate completion of the permanent work is the most economical and feasible way to quickly restore essential traffic. An example would be a bridge and approaches being washed out, construction of a detour being both costly and time consuming, and the agency having precast concrete girders readily available that could be used at the site. In such a case immediate construction of the permanent structure and approaches could be accomplished at the discretion of the state or local agency, and approval by FHWA would be handled as emergency repair.

The use of ER funds for temporary repairs to roadways will normally be limited to the amount necessary to bring the washed-out fills and slip-outs back to grade with a gravel surface. However, in most cases these emergency repairs to roadways will not be constructed to true line and grade. They will usually follow the terrain and be constructed in the easiest and fastest manner. The repair to the road, nevertheless, should be good enough so that traffic can travel over it safely at a speed reasonable for the site conditions. Where routes handle heavy traffic, an appropriate type of bituminous surface as a temporary repair will be eligible for short sections of roadway.

The placement of the final high-type pavement is normally considered permanent repair. If done as emergency work, such paving must have prior FHWA concurrence to be eligible for Federal participation. FHWA will consider traffic characteristics, remoteness of the site, traffic control requirements, and socio-economic factors before approval.

- d. **Force Account/Contracts for Emergency Repairs.** Work shall be undertaken by competitively bid contract where time permits. The FHWA may approve a waiver of the advertising requirement if such procedures are authorized by state or local law, and bids are solicited from a reasonable number of contractors or material supply companies, as applicable.
 - 1. **Force Account.** Due to the emergency character of the work, state and local forces and/or negotiated equipment rental contracts may be used in handling a considerable portion of the emergency repairs.

In accordance with federal aid policy guide 23 CFR 668A (December 9, 1991), a formal finding for force account work for emergency repairs is not required.
 - 2. **Solicited Contract.** This is one type of contract which may be warranted due to the emergency character of the work in the solicited contract. Several contractors are contacted by telephone and asked to submit bids on equipment rental, labor, and materials. Unless emergency circumstances make it impossible or infeasible to do so, provisions of 23 U.S.C. 112(c) which require a sworn statement of noncollusion apply. Likewise, a summary must be prepared showing how the solicitation was done, who was contacted, and the responses by the contractors.
 - 3. **Negotiated Contracts.** Negotiated contracts should only be used to facilitate prompt, essential emergency repairs. Two types of contracts are appropriate. The cost-plus-fixed-fee method is preferred. The contractor is paid for the costs of materials, equipment, labor, and overhead. In addition, the contractor will receive an amount agreed to at the negotiation stage.

There may be situations where it is difficult to determine the extent of the work to be performed. In these cases, it may be appropriate to use a time-and-materials contract. The contractor is paid for the cost of materials and equipment. Specified hourly rates are negotiated including wages, overhead, and profit. All direct labor hours are paid at the negotiated rates. When this type of contract is used, the local agency should closely monitor the work to assure labor efficiency.

- e. **Permanent Repairs.** Permanent restoration work will not be eligible if performed prior to program approval and authorization by the Federal Highway Administration, unless it has been determined more economical or practical to perform such work as an associated part of the emergency repairs. Documentation of this determination is essential.

Permanent repairs may involve one or more of the following categories of work:

1. **Restoration-in-Kind.** The ER program provides for repair and restoration of highway facilities to predisaster conditions. Restoration-in-kind is the expected predominate type of repair to be accomplished with Emergency Relief funds. Any additional features or changes in character from that of the predisaster facility are generally not eligible for ER funding unless they can be justified because of construction, economy, prevention of future recurring damage, or technical feasibility.
2. **Replacement Facilities.** Where a facility has been damaged to the extent that restoration to its predisaster condition is not technically or economically feasible, a replacement facility is appropriate. Replacement facilities should be constructed to current design standards. Emergency Relief participation in a replacement roadway will be limited to the costs of current design standards of comparable capacity (i.e., number of lanes) and character (i.e., surfacing type, access control, rural/urban section). Replacement of a bridge will be the cost of a new bridge to current design standards for the type and volume of traffic it will carry during its design life.

Emergency relief participation may be prorated at the costs of a comparable facility when the proposed replacement project exceeds the capacity and character of the destroyed facility.
3. **Betterments.** A betterment is defined as any additional feature, upgrading or change in capacity, or character of the facility from its predisaster condition. Betterments are generally not eligible for Emergency Relief funding unless justified on the basis of economy, suitability and engineering feasibility, and reasonable assurance of preventing future similar damage. Betterments should be obvious and quickly justified without extensive public hearing, environmental, historical, right-of-way, or other encumbrances. The justification must weigh the costs of the betterment against the probability of future recurring eligible damage and repair costs.

Upgrading that results from construction of replacement facilities to current standards as defined above is not considered a betterment insofar as the need for further justification. However, with respect to roadways, increases in capacity or a change in character of the facility would be considered betterments and are not justified for ER participation.

Betterments which have been approved in the past with proper justification include:

- Installation of riprap
- Relocation
- Increased waterway opening
- Slope stabilization
- Slide stabilization
- Dike construction
- Grade raises

Betterments resulting from environmental or permit requirements beyond the control of the highway agency are eligible for ER funds if these betterments are normally required when the agency makes repairs of a similar nature in its own work.

Raising of grades, relocations, or replacements with increased waterway openings must be properly justified. The reduction of a waterway by the deposit of a large alluvial fan in the vicinity of an undamaged bridge does not qualify the undamaged bridge for replacement. When an applicant proposes to increase the waterway opening by replacing the original closed abutment structure with an open-end abutment structure, the building of a new structure is of questionable economy.

Minor relocations and alignment shifts are frequently advisable and are eligible for Emergency Relief participation. However, any design made to avoid damage which could be expected to occur infrequently is questionable. Added features of appropriate protection, such as slope stabilization, slope protection, and slide prevention measures wherever practicable, must have proper support. Slide stabilization work has been declared ineligible in problem areas where slides recur annually. The cost of monitoring slide stabilization measures after completion of the initial stabilization is not eligible. Emergency Relief participation in the initial construction does not create a continuing ER responsibility for future additional work.

Betterments which are eligible for reimbursement will be addressed, agreed to, and documented on the detailed damage assessment form.

4. **Replacement-in-Kind.** Where extensive damage has occurred, ER funds may be used for replacement-in-kind as the proper solution but with added features of appropriate highway or bridge protection. Where relocation is necessary, each case must be considered carefully to determine what part of the relocation is justified for construction with ER funds participation.
5. **Wayside Areas.** Wayside areas include rest areas and truck weighing stations. Access and parking facilities can be cleared and protected as part of an Emergency Relief project.
6. **Replacement of Culverts.** Upgrading culverts to current standards must be specifically related to eligible disaster damage repair. Damaged culverts are eligible for repair in kind. Destroyed culverts are eligible for replacement to current standards. Wholesale upgrading of deficient culverts on an area or route basis is not eligible.
7. **Deficient Bridges.** This includes bridges unsafe in structural condition only and does not consider waterway opening, functional obsolescence or serviceability. A structurally deficient bridge which was not under construction or scheduled for replacement with other federal funds may be eligible for ER. ER funds do not supplant other federal funds. The following represent two common situations:

- (a) Bridge is damaged and is repairable.
Emergency Relief funds may participate in:
 - Reasonable emergency repair to restore travel.
 - Repair of disaster damage if bridge will be structurally safe upon completion of disaster damage repair (repair of disaster damage corrects structural deficiency).
 - Repair of disaster damage if other funds are used to simultaneously correct the structural deficiencies (repair of disaster damage will not correct structural deficiency).
 - No permanent repair if bridge is scheduled for replacement.
- (b) Bridge is destroyed or repair is not feasible.
Emergency Relief funds may participate in:
 - Reasonable emergency repairs to restore traffic.

- New comparable replacement structure if bridge was not scheduled for replacement.
- No permanent repair if bridge is scheduled for replacement.

8. **Bridge Betterments.** Two common bridge betterment situations are:

- (a) Bridge is destroyed. A new comparable replacement structure would be eligible. Betterments are generally not a consideration except:
 - ER funds could participate to the extent of the cost of a comparable low water crossing or movable structure.
 - Extensive relocation of a replacement bridge is an ineligible betterment and ER participation will normally be limited to the cost of the structure and a reasonable approach length.
 - The replacement of low water crossings or movable bridges with high level structures is beyond the intent of a comparable facility and is an ineligible betterment.
- (b) Bridge is seriously damaged but repair is feasible. Repair-in-kind is eligible for ER funds.

Added protection features such as riprap, spur dikes, or additional channel work if justified as a betterment would be eligible (i.e., there is reasonable assurance that similar future damage would be prevented and the cost of the betterment does not unreasonably exceed anticipated future ER costs).

Control features for stream channels outside the highway right-of-way are generally not eligible. Work involved in channel changes, riprap, bank protection, clearance of debris and wreckage from the channels and stream beds, and other associated permanent work is not eligible unless it can be established that the public highway agency has jurisdiction and responsibility for the maintenance and proper operation of this section of the stream. Normally, projects associated with channel work (riprap, bank protection, etc.) that require right-of-way purchases and/or easements outside the right-of-way are not eligible. The fact that the agency responsible for channel maintenance does not have funds to finance the repair and protection work is not an acceptable reason for ER fund

assistance. In situations involving requests for participation in erosion control and bank protection outside the highway right-of-way, the following items must be verified by the highway agency to obtain eligibility:

- The work is directly related to protection of the highway facility.
- The work is not eligible for funds from another agency.
- No other agency has the responsibility for such work.
- The applicant agrees to accept the future maintenance of all work performed.

When work of this type is proposed, the project documents should include a letter from the local agency covering all four of the above features including acceptance of the responsibility for maintenance. Other supporting data should include copies of correspondence with the Corps of Engineers or other appropriate agency to verify that no other eligibility or responsibility exists.

- Increased bridge width or other geometric improvements and correction of nondisaster-related structural or surfacing improvements such as deteriorated pilings or decks are not eligible.
9. Protective Work. When permanent and emergency repairs cost considerably less than proposed protective measures such as riprap, eligibility of protective measures is questionable. For example, if repairs consisting of replacement-in-kind cost only \$1,500 and the estimated cost to provide sufficient protection to prevent damage under similar unusual conditions is \$9,000, participation beyond that necessary for replacement-in-kind would not be economically justified.
 10. "Convenient" Damage. To eliminate a recurring annual maintenance problem based on the occurrence of a disaster is questionable. For instance, an applicant proposes to replace a damaged triple box culvert and roadway fill with a bridge. This is a betterment to alleviate an annual maintenance problem which was accelerated by a disaster. ER participation in the construction cost of a bridge is limited to the amount necessary to repair the triple box culvert.
 11. Rock and Mud Slides. The removal of rock and mud slides is eligible. Such a slide, unless justified on their own as a catastrophic failure, must be associated with the overall natural disaster.

When an old slide has been activated during a natural disaster, its correction to provide a safe roadway is eligible. Should the agency propose to relocate a road instead of correcting the old slide, the cost of the relocation to predisaster capacity and character may be eligible if justified as a betterment.

Slide stabilization is also a betterment. Emergency Relief participation must be based on detailed analysis of the slide and on reasonable assurance of preventing similar future damage showing stabilization costs do not unreasonably exceed anticipated ER costs. Such analysis must include road relocation and do-nothing alternatives and consideration of previous testing recommendations for the area.

12. Plugged Culverts. Cleaning out plugged culverts is an eligible activity as long as it is considered beyond heavy maintenance and is associated with other eligible damage. Replacement of plugged culverts should be considered eligible only when justified as a betterment or when cleaning is not cost effective.
- f. Design Standards. Reconstruction of damaged roadway and bridge facilities must be to adequate standards, including appropriate safety features. Reconstruction of extensively damaged facilities, including betterment projects when adequately justified, should be to the current design standards. Replacement of roadway facilities other than bridges is limited to the existing number of lanes and surface type. Bridges may be replaced with a facility which meets current geometric and construction standards required for the type and traffic volume which such facility will carry over its design life.
 - g. Environmental Impact Assessment. A categorical exclusion under 23 CFR 771.115(9), (13), and (14) is generally applicable to ER projects. This would apply to repair of the damaged roadway to predisaster conditions and requires the concurrence of the Division Administrator. If the finding cannot be made, the project is subject to an environmental assessment under provisions of 23 CFR 771.

Emergency repairs during or immediately after a natural disaster are generally classified as categorical exclusions as are general permanent repairs if they are replacements in kind (see 23 CFR 771 and 40 CFR 1508.4).

Extensive environmental processing could jeopardize an otherwise reasonable project by removing it from an eligible category under 23 U.S.C. 125. In other words, if a situation persists with no correction for an extended period of time, it may be unreasonable to

continue to classify it as a disaster-related emergency rather than a long-term need to be funded with regular federal aid.

- h. **Abbreviated Plans.** The FHWA Division Administrator may approve the use of abbreviated plans provided that they provide essential information necessary to describe the work to be accomplished and determine the reasonableness of unit prices for contract or force account work.
- i. **Administrative Expenses.**
 - 1. **Regular and Extra Employees.** Regular salaries and overtime salaries and wages of all the regular applicants and extra employees directly engaged in work on Emergency Relief projects are eligible for reimbursement by the federal government. Timekeeping procedures should provide for allocating employees' time to projects and/or other activities each day on an hourly basis. The timekeeping document, such as a time slip, time and attendance report, or time book, is the source document which must be available for examination by audit personnel to support direct labor costs claimed on any ER project. The document should be signed by a responsible employee having knowledge that the time distribution is accurately reported.
 - 2. **Payroll Additives.** Usually referred to as a labor surcharge, a set percentage over and above the total direct labor costs charged to a project is eligible for participation. This surcharge is to cover costs of various types of leave allowances, industrial accident insurance coverage, and other employee benefits. The allowable percentage rates will normally vary from year to year, from agency to agency. Therefore, the records used in developing percentage rates should be preserved under suitable control conditions to assure availability for examination when requested. The acceptable percentage rate may be applied only to direct labor costs.
 - 3. **Other Expenses.** Expenditures for organization, maintenance, general administration, supervisory overhead, or other overhead of the SHA or political subdivision shall not be eligible for federal participation. However, personnel whose activities normally place them in an overhead category may be assigned to a specific project in an emergency. During such periods, their salaries would be eligible for federal participation, provided their time is documented on source documents with Emergency Relief projects.

33.4 Emergency Relief for Roads and Streets Not Eligible for Federal Aid

Roads/streets not eligible for federal aid may qualify for disaster relief funds under Public Law 93-288, as amended (Robert T. Stafford Disaster Relief and Emergency Assistance Act, Nov., 1988) which is the authorization for federal assistance to local or state governments, private-nonprofit organizations, and Indian tribes. The Federal Emergency Management Agency (FEMA) administers this program. Although neither FHWA nor WSDOT is involved in disaster relief project funding for non-federal aid roads/streets, this section has been included for informational purposes.

This PL93-288 program provides federal reimbursement of eligible costs to repair, restore, reconstruct, or replace damaged roadway facilities not on an eligible federal aid road/street. This includes emergency opening and permanent restoration.

Before funds are made available, the Governor must proclaim a state of emergency and request assistance from the President for assistance. The President must declare either an emergency or major disaster declaration.

The Disaster Recovery Manager (DRM) of the Federal Emergency Management Agency (FEMA) and Washington State's Governor's Authorized Representative (GAR) are responsible for determining program eligibility based on criteria established by the federal government. The GAR is responsible for Program administration.

.41 Applying for Federal Assistance.

- a. **Governor's Request for Federal Assistance.** Based on the preliminary damage assessments, the Emergency Management (EM) prepares the Governor's request letters for the Governor's signature which is then submitted through FEMA to the President of the United States.
- b. **Presidential Declaration.** If the President determines that the situation warrants federal assistance, he declares either an emergency or major disaster and invokes applicable sections of Public Law 93-288.
- c. **Federal/State Agreement.** After the President makes the declaration of emergency, the Governor and FEMA Administrator sign a federal/state agreement for federal, state and local participation.

.42 Actions After Federal Funding Approval.

- a. **Preparation of Damage Survey Reports.** EM and FEMA jointly establish disaster field offices (DFO) to coordinate federal and state response.
- b. **Applicant Briefings — Eligibility Determination.** The Governor's Authorized Representative (GAR) and Federal Disaster Recovery Manager (DRM) will conduct applicant briefings. These briefings are for local elected officials, program administrators, and

accountants/bookkeepers. Local representatives are told what kind of assistance they will receive and the process to obtain the assistance. WSDOT (TransAid) will provide a representative at the briefing to discuss the ER program.

- c. **GAR and DRM Determination Review.** In most cases, if not all, the GAR and DRM will review and determine eligibility of the damage survey reports (DSRs) in the disaster field office (DFO). Those DSRs not determined in the DFO will be followed up by the GAR and DRM at a later date.
- d. **State Requirements.** The GAR will coordinate with fisheries and wildlife departments to review each project (DSR) and determine if a hydraulic permit approval is required.
- e. **Project Modifications.** The applicant does the work, and if a time extension, scope, or fiscal modification is required, the applicant agent makes a request to the GAR for consideration.
- f. **Project Closure.** When the work has been completed, the applicant agent submits a Statement of Documentation to the GAR. The GAR determines whether or not final inspections need to be conducted based on program guidelines. Projects will be audited as part of the Single Audit Act by the State Auditors Office. Once all the program requirements have been met and final payment made, the GAR will send a close-out letter to the applicant agent.

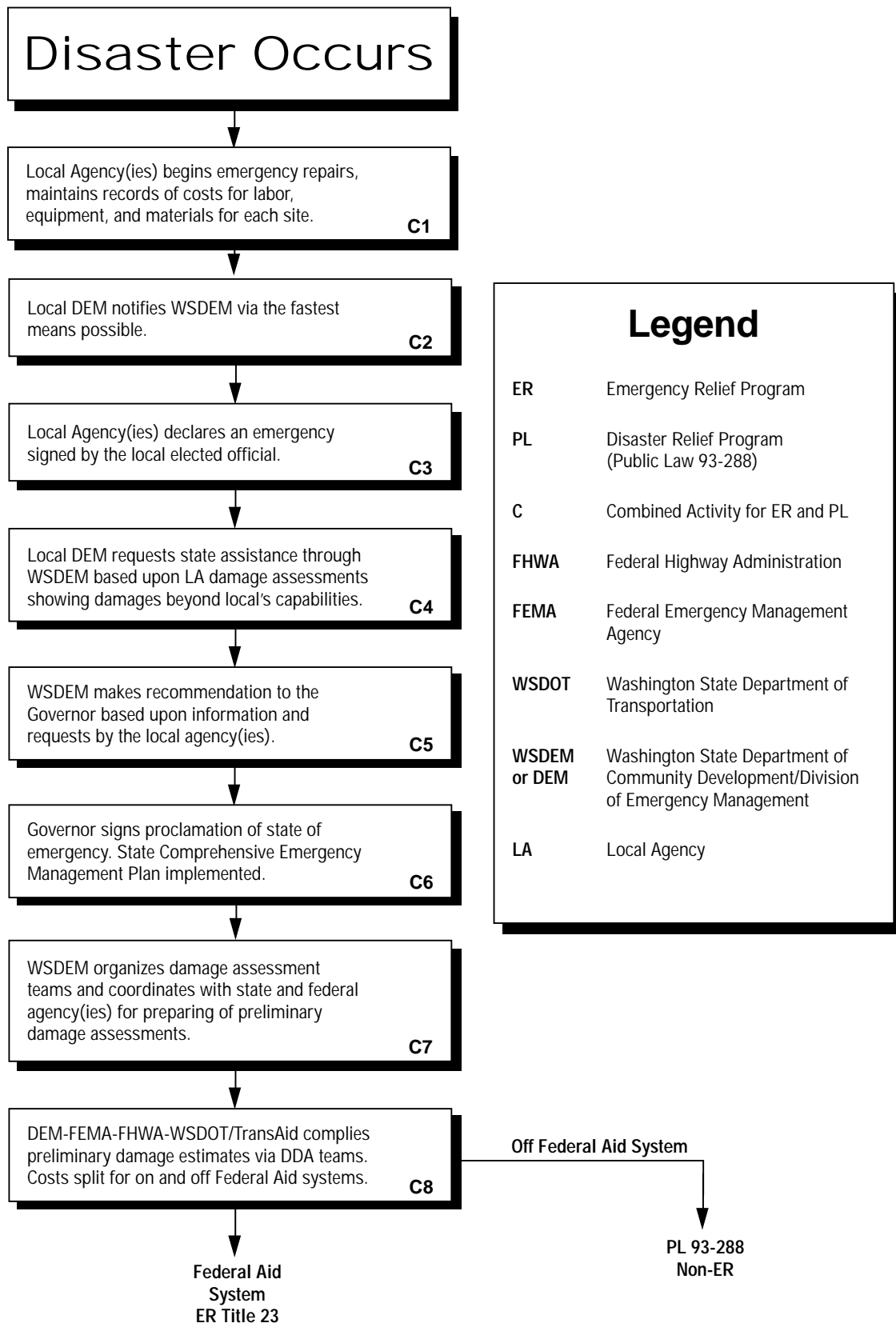
When the federal audit or review is completed, the FEMA Regional Office forwards the reimbursement request to the FEMA National Office.

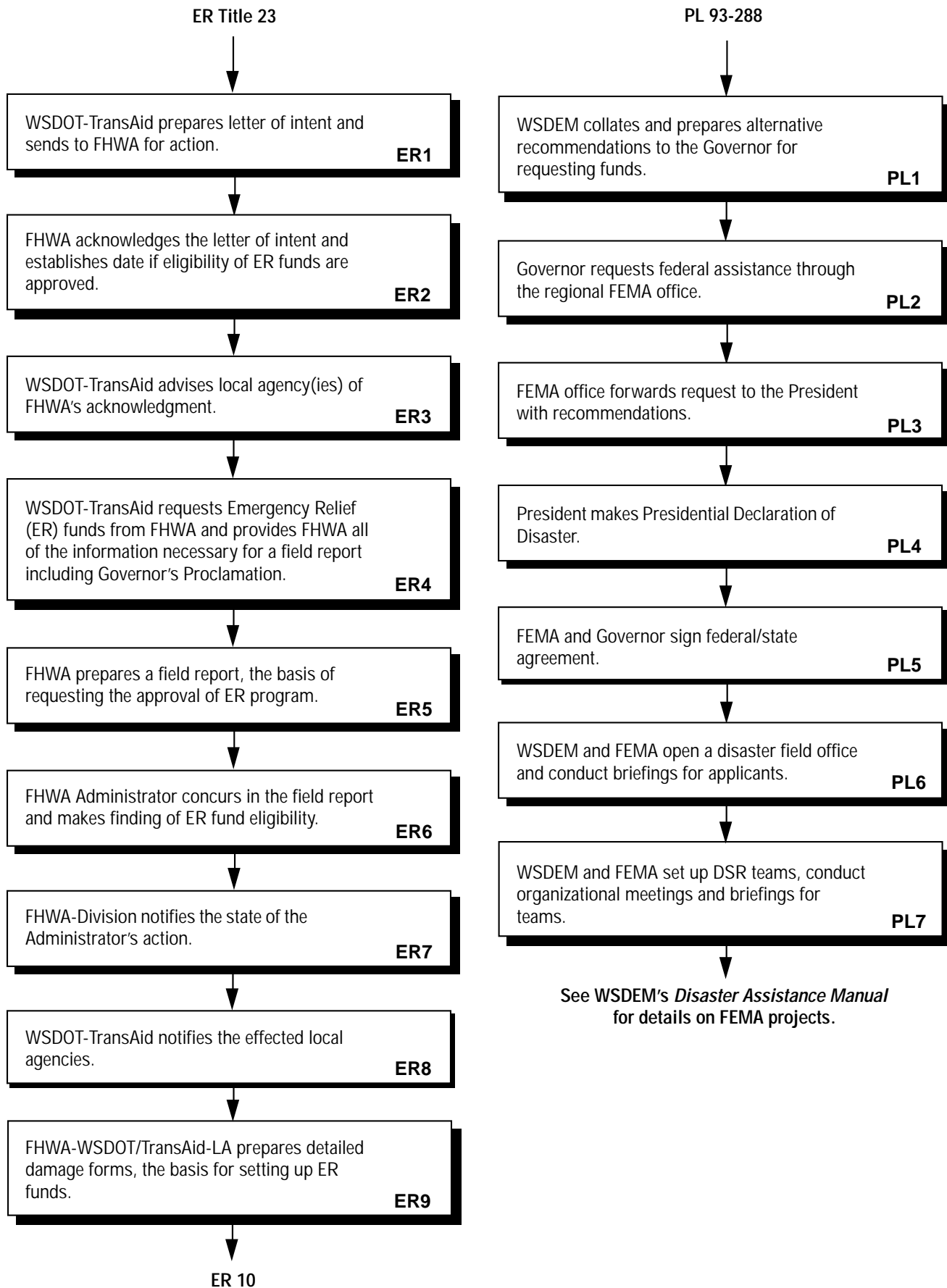
The FEMA National Office forwards the final payment through EM, then closes out the project application.

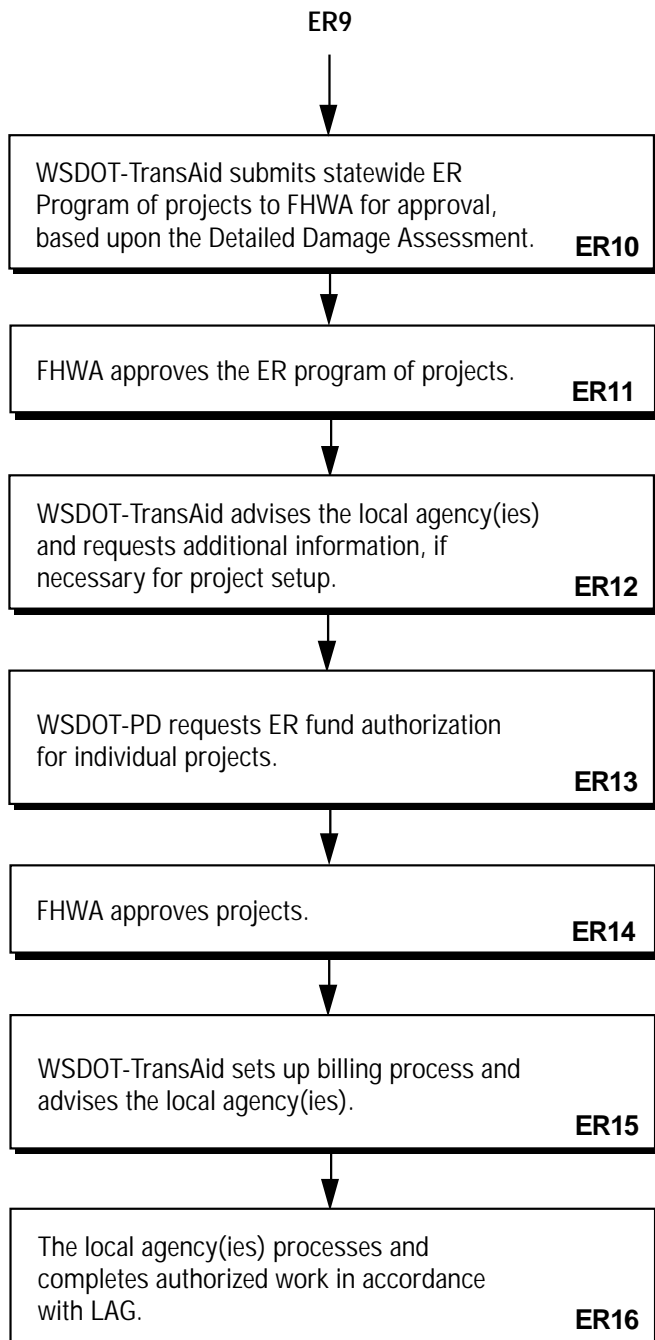
33.5 Appendixes

- 33.51 [Emergency Relief Program Flow Chart](#)
- 33.52 [Local Declaration of Emergency](#)
- 33.53 [Example Preliminary Damage Assessment Worksheet \(EM Form 129\)](#)
[DEM 130 Summary Damage](#)
- 33.54 [Letter of Intent](#)
- 33.55 [FHWA Acknowledgement of Letter of Intent](#)
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12:LAG3A







SAMPLE

LOCAL AGENCY DECLARATION OF EMERGENCY

Date _____

WHEREAS, the _____ County Department of Community Development/ Division of Emergency Management has reported to the Board of County Commissioners, that beginning on _____, 19____, unusual weather conditions, consisting of heavy snowfall followed by rain, have caused a disaster by creating extensive flooding in parts of _____ County; and

WHEREAS, extensive damage has occurred and is still occurring to county roads and bridges, private roads, homes, businesses, and farmland; and

WHEREAS, persons and property are and will be damaged unless further efforts are taken to reduce the threat to life and property; and

WHEREAS, there is a present emergency which necessitates activation of the _____ County Disaster Preparedness Plan and utilization of emergency powers granted pursuant to RCW 36.40.180 and RCW 38.52.070(2), therefore

BE IT RESOLVED BY THE BOARD OF _____ COUNTY COMMISSIONERS:

SECTION 1

It is hereby declared that there is an emergency due to the flooding conditions in _____ County. Therefore, designated departments are authorized to enter into contracts and incur obligations necessary to combat such disaster, protect the health and safety of persons and property, and provide emergency assistance to the victims of such disaster.

SECTION 2

Each designated department is authorized to exercise the powers vested under Section 1 of this resolution in the light of the urgency of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements).

Board of County Commissioners

_____ County, Washington

Chairperson, _____

Commissioner, _____

Commissioner, _____

Note: Mailed to all county newspapers on above date.

cc: Washington State Emergency Management, re. notification by phone
Washington State Department of Transportation, Regional TransAid Engineer

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(Example)

Date _____

(Name) _____
Division Administrator
Federal Highway Administration
Olympia, WA 98507

Emergency Relief Funds

Dear _____:

The Washington State Department of Transportation intends to request Emergency Relief funds authorized under Sections 120 and 125 of Title 23, U.S. Code. These funds are to assist in financing repairs to the Washington State federal aid highway system necessitated by _____.

As you are aware, flooding occurred in several areas of the state and caused much damage to the federal aid system. An accurate estimate of the damage is not available at this time. Damage survey estimates will be prepared soon by the Federal Highway Administration, Washington State Department of Transportation, and the local agencies concerned.

We will submit an application for Emergency Relief funds as soon as possible.

The Governor's proclamation declaring a state of emergency is not yet available. A copy will be forwarded to your office when it is available.

Very truly yours,

Secretary of Transportation

cc: Deputy Secretary of Transportation
Assistant Secretary of Operations
Assistant Secretary of TransAid
Chief Maintenance Engineer
District Administrator
Program Management Engineer
Washington State Emergency Management

SAMPLE

FHWA ACKNOWLEDGEMENT OF LETTER OF INTENT

Date _____

Secretary of Transportation
Department of Transportation
Olympia, Washington 98504

Re: Emergency Relief Funds

Dear _____:

This is to acknowledge receipt of your letter of intent, dated _____, to request Emergency Relief Funds, authorized under Sections 120 and 125 of Title 23, U.S. Code, for the repair of damage to Federal-aid systems in _____ and _____ Counties resulting from the floods of _____.

Upon receipt of the Governor's official proclamation, you should proceed with performance of the emergency operations, including emergency repairs necessary on the Federal-aid highway systems to restore essential travel; to protect the remaining facilities; to reduce the extent of damage; to begin preliminary engineering consisting of surveys, design, and preparation of construction plans; to perform that permanent restoration work which is required as part of the emergency operations; and to use State forces and/or negotiated equipment-rental contracts as necessary to perform the work.

The eligibility of such work for ER Funds will be contingent upon a favorable finding by the Federal Highway Administrator on the eligibility of the disaster and subsequent approval of the work by FHWA.

The basis for the Administration's design will be a field report with estimates of cost to repair and reconstruct the damaged Federal-aid routes and evidence of the widespread extent and intensity of the disaster.

My office will be meeting with members of your staff to make arrangements for reviewing the disaster damage and preparing a field report and site damage reports.

If the Administrator concurs in the disaster finding, all emergency work must be included in an emergency program, and the program, when submitted for approval, shall include a detailed outline of the necessary emergency operations performed and a description of the permanent restoration work proposed. Permanent restoration work other than that performed as a part of the emergency operations shall not be performed prior to program approval and authorization by this office.

Sincerely yours,

Division Administrator

(Sample)

**STATE OF WASHINGTON
PROCLAMATION BY THE GOVERNOR**

WHEREAS, beginning on _____, rapid melting of a heavy snowpack, periods of freezing rain, and over three inches of rain in a short period of time caused a rapid build-up and surge of surface water in _____ County. This caused road washouts, mudslides, power outages, and flooding in homes, farms, and businesses throughout the county. The rain and flooding continue to cause further threat of damage.

WHEREAS, the severity of the destruction and damage are beyond the capabilities of _____ County, and subsequently, I find that a disaster affecting life, health, and property exists within the state of Washington.

NOW, THEREFORE, I, _____, Governor of the state of Washington, as a result of the aforementioned flooding and under the provisions of Chapter 43.06 RCW and RCW 38.52.050, do hereby proclaim that a State of Emergency exists in Washington State and that the Washington State Disaster Preparedness Plan be executed. The resources of the state of Washington are authorized to be employed to assist _____ County in a concerted effort to cope with the emergency. Additionally, the Department of Community Development/Division of Emergency Management is instructed to coordinate all state assistance in support of _____ County. The department is also instructed to determine if federal assistance is needed.

IN WITNESS WHEREOF, I have hereunto set my hand
and caused the seal of the state of Washington to be affixed
at Olympia.

Governor of Washington

BY THE GOVERNOR:

Secretary of State

OFFICE OF THE ENGINEER or PUBLIC WORKS DEPARTMENT
_____ COUNTY

Date _____

(Name) _____
Regional TransAid Engineer
Transportation Building, KF-01
Olympia, WA 98504-5201

Re: Request for Assistance
Flood Damage to _____
County Roads

Dear _____:

This letter is to request assistance, under provisions of Title 23, U.S.C., Section 125, through the Federal Highway Administration, for necessary repairs to the federal aid highway system in the form of emergency relief.

On _____, 19____, the Board of County Commissioners declared a State of Emergency in _____ County due to a major flooding condition on the _____ River. Heavy flooding continued through _____ causing a great deal of damage to public and private property throughout _____ County. Enclosed is a copy of the County Commissioners' Declaration of Emergency executed on _____, 19____.

Detailed estimates of the damage are being developed at this time. However, preliminary estimates indicate that the county road network suffered a loss in excess \$ _____ due to this flooding, of which \$ _____ covers damages to the federal aid system. The Board of County Commissioners has requested, through the State of Washington Department of Community Development/Division of Emergency Management, that the Governor issue a disaster declaration on behalf of _____ County and render all required and available assistance, including a request to the President of the United States to declare the Washington counties affected by the massive flooding a National Disaster.

_____ County is not in a position to adequately fund such restoration without substantial adverse impact to the remainder of the County. _____ County has endeavored to maintain its entire road system, including the federal aid routes, at a level of service which provides a safe and efficient transportation system for the motoring public.

Attached is the following pertinent information:

- (1) Disaster impact and damage assessment.
- (2) Estimated damages on county roads (on and off federal aid system).
- (3) The County's Annual Maintenance and Construction Budget.
- (4) A County map showing the location and limits of the damaged areas.
- (5) Storm data of the region.
- (6) Photos of damaged areas.
- (7) Newspaper articles.

Thank you for your attention to this request. We look forward to your early response.

Sincerely,

Director of Public Works
or County Engineer

Enclosures

(Example)

Date

Agency

Emergency Relief

Dear :

The Federal Highway Administration (FHWA) has determined that costs for repairing the federal aid system roads damaged by the _____, in _____ counties, are eligible for ER funds.

The federal share of eligible costs will be 100 percent for emergency repair accomplished in the first 180 days after _____. The federal share for permanent repairs and all eligible work accomplished after the first 180 days will be based on the pro-rata share for the federal aid system damaged.

In accordance with federal regulations, the next step consists of the program preparation. This is accomplished by the preparation of a Detailed Damage Assessment Report. The Regional TransAid Engineer, along with the FHWA Area Engineer will be contacting your office very soon to schedule site visits to prepare detailed cost estimates for the individual damaged sites.

Following completion of the detailed damage assessments, TransAid, in coordination with FHWA, will set up the program and funding for eligible work. Reimbursement for work accomplished will be in accordance with the *Local Agency Guidelines*.

Sincerely,

Regional TransAid Engineer

:kmp

TP/samer

Enclosure

cc: Regional TransAid Engineer

(Add) DETAIL USDOT FEDERAL HIGHWAY ADMINISTRATION - REGION 10 DAMAGE ASSESSMENT FORM (Title 23, Federal-aid System)				Report No. _____ Sheet No. _____ of _____ Disaster No. _____	
Applicant: _____			County: _____		Insp. Date _____
Location of Damage (Name of Road and Milepost) _____				Fed-aid Route _____	
Description of Damage _____					
Cost Estimate (Including Construction Engineering)					
Emergency Repair Complete	Quantity	Unit	Description of Work to Date (Equipment, Labor, and Materials)	Unit Price	Cost
Method of Work: Local Forces <input type="checkbox"/> Emergency Contract <input type="checkbox"/> State Forces <input type="checkbox"/>				Total Emergency Repair Complete \$ _____	
Emerg. Repair Remain.					
Method of Work: Local Forces <input type="checkbox"/> Emergency Contract <input type="checkbox"/> State Forces <input type="checkbox"/>				Total Emergency Repair Remaining \$ _____	
Permanent Restoration					
Estimated Preliminary Engineering				\$ _____	
Method of Work: Local Forces <input type="checkbox"/> Permanent Repair Contract <input type="checkbox"/> State Forces <input type="checkbox"/>				Total Permanent Restoration \$ _____	
Environmental Assessment Recommendation <input type="checkbox"/> Not Required <input type="checkbox"/> Major Action <input type="checkbox"/> Nonmajor Action			Right-of-Way \$ _____		
			TOTAL ESTIMATED COST		\$ _____
Recommendation <input type="checkbox"/> Eligible <input type="checkbox"/> Ineligible			FHWA Engineer		Date _____
Concurrence <input type="checkbox"/> Yes <input type="checkbox"/> No			State Engineer		Date _____
Concurrence <input type="checkbox"/> Yes <input type="checkbox"/> No			Local Agency Representative		Date _____

